

1 BARBARA C. HARRIS
2 Special Assistant Attorney General
3 Special Deputy Cascade County Attorney
4 840 Helena Avenue
5 Helena, MT 59601
6 Telephone: (406) 444-2040
7
8 Attorney for the State

CLERK OF DISTRICT COURT
FAYE McWILLIAMS

2017 JUL 31 PM 1:11

FILED

BY _____
DEPUTY

RECEIVED

AUG 01 2017

RCV'D MT
STATE AUDITORS OFFICE

MONTANA EIGHTH JUDICIAL DISTRICT COURT, CASCADE COUNTY

STATE OF MONTANA,

Plaintiff,

v.

KENNETH JAMES HATZENBELLER,

Defendant.

Cause No. DDC-2016-319(b)

**STATE'S NOTICE REGARDING
SENTENCING ORDER AND
JUDGMENT WITH SIGNED
CERTIFICATE OF SERVICE**

On July 14, 2017, the State received the Sentencing Order and Judgment in the above case signed by Judge Elizabeth Best on July 5, 2017. The State gives notice of the following:

1. The statements by the Court that "The sentence in the Federal matter arises out of the same conduct as that supporting the Defendant's plea in this case." (Sent. Order and Judgment at 1) and "The parties agreed that the same conduct underlies the convictions in this matter and in the Federal proceeding." (Sent. Order and Judgment at 3) are not consistent with the State's knowledge or presentation of this case. The federal case involved violations of federal law (the victims were banking institutions) completely separate from the violations in this case of state securities fraud law (the victims were individuals).

2. The statement that "the State commented to the press after the hearing on sentencing that it expected a harsher sentence . . ." is not accurate. Moreover, any such information is not a part of the record in this case and cannot be considered as a basis for a

1 sentence.

2 This Notice is filed pursuant to Mont. Code Ann. Sections 46-18-116, which provides:

3 **Judgment -- conflict between written judgment and oral pronouncement --**
4 **correction of factually erroneous sentence or judgment.** (1) The judgment
5 must set forth the plea, the verdict or finding, and the adjudication. If the
6 defendant is convicted, it must set forth the sentence or other disposition. The
7 written judgment must be signed and must be entered on the record within 30
8 days after the oral pronouncement of the disposition of the case. At the time
9 that the judgment is filed, the prosecutor of the county in which the sentence
10 was imposed shall serve a copy of the judgment on the defendant. The written
11 judgment must include a statement of the rights set forth in subsection (2).

12 (2) If a written judgment and an oral pronouncement of sentence or
13 other disposition conflict, the defendant or the prosecutor in the county in
14 which the sentence was imposed may, within 120 days after filing of the
15 written judgment, request that the court modify the written judgment to
16 conform to the oral pronouncement. The court shall modify the written
17 judgment to conform to the oral pronouncement at a hearing, and the defendant
18 must be present at the hearing unless the defendant waives the right to be
19 present or elects to proceed pursuant to 46-18-115. The defendant and the
20 prosecutor waive the right to request modification of the written judgment if a
21 request for modification of the written judgment is not filed within 120 days
22 after the filing of the written judgment in the sentencing court.

23 (3) The court may correct a factually erroneous sentence or judgment at
24 any time. Illegal sentences must be addressed in the manner provided by law
25 for appeal and postconviction relief.

26 DATED this 18th day July, 2017

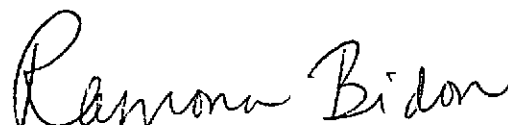


27 BARBARA C. HARRIS
Attorney for the CSI

CERTIFICATE OF SERVICE

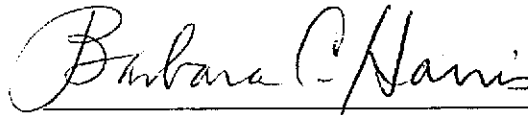
20 The undersigned hereby certifies that on this 18th day of July, 2017, a true and
21 correct copy of the foregoing State's Notice Regarding Sentencing Order and Judgment was
22 sent by US mail, postage prepaid, to:

23 Kenneth R. Olson
24 Johnson Building, Fourth Floor
25 417 Central Avenue
26 Great Falls, MT 59401



1 The above Certificate of Service was inadvertently not signed on July 18, 2017. A
2 copy of the document was sent to Kenneth R. Olson pursuant to the certificate on July 18,
3 2017; only the signature was omitted.

4 DATED this 28th day of July, 2017.

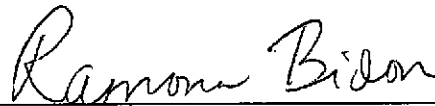
5 

6 BARBARA C. HARRIS
7 Attorney for the CSI

8 **CERTIFICATE OF SERVICE**

9 The undersigned hereby certifies that on this 28th day of July, 2017, a true and
10 correct copy of the foregoing State's Notice Regarding Sentencing Order and Judgment With
11 Signed Certificate of Service was sent by US mail, postage prepaid, to:

12 Kenneth R. Olson
13 Johnson Building, Fourth Floor
14 417 Central Avenue
Great Falls, MT 59401

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COMMISSIONER OF SECURITIES & INSURANCE

MATTHEW M. ROSENDALE, SR.
COMMISSIONER



CLERK OF DISTRICT COURT
FAYE MCWILLIAMS MONTANA
STATE AUDITOR
2017 JUL 31 PM 1:11

FILED

BY _____
DEPUTY

July 28, 2017

Faye McWilliams
Cascade County Clerk of District Court
415 Second Avenue North
Great Falls, MT 59401

Re: *State v. Kenneth J. Hatzenbeller*, Cascade County Cause No. DDC-16-319

Dear Ms. McWilliams:

Enclosed for filing is the original State's Notice Regarding Sentencing Order and Judgment With Signed Certificate of Service, as well as a copy. Please return the conformed copy in the enclosed stamped envelope.

Thank you for your assistance. Please call Barbara C. Harris at 406-444-2040 with any questions or concerns.

Sincerely,

RAMONA BIDON
Secretary

Enclosures